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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 12662 of 2017

and

Crl.M.P.Nos.14398, 14399 and 8267 of 2017

1. Arumugam
2. Ramachandran
3. Rajram
4. Thanikachalam
5. A. R.Dharman
6. Palani
7. Ekambaram
8. Thangavel
9. Chinnathambi
10. Koatty
11. Krishnan
12. Murugan
13. Ravi

... Petitioners/Accused 1 to5,6 to 13

(Petitioners 4 to 13 are impleaded as per the order
of this Court, dated 26/10/2017, made in
Crl.M.P.No.13101 of 2017 in Crl.O.P.No.12662 of 2017)

Versus

- 1.A.P.Ganapathy (died)
- 2.Uma Paramasivam

... Respondents/ Complainant/
Defendant Complainant

PRAYER :

Criminal Original Petition filed under Section 482 of
Cr.P.C. to call for records and quash C.C.No.70 of 2012 pending
on the file of the District Munsif-Cum-Judicial Magistrate,
Pochampalli.

For Petitioners : Ms.G.Sridevi

For Respondents : Mr.M.P.Saravanan
for R.2



O R D E R

This Criminal Original Petition has been filed to quash C.C.No.70 of 2012, pending on the file of the District Munsif-cum-Judicial Magistrate, Pochampalli.

2. Heard the learned counsel appearing for the petitioners and the respondent.

3. Brief facts which are necessary for the disposal of this Criminal Original Petition is as follows:-

C.C was taken on file, pursuant to the private complaint filed by the defacto complainant. The trial Court has taken cognisance for the offences punishable, under Sections 147, 148, 294 -B and 506 (ii) of the Indian Penal Code and 15 accused were summoned and trial started. P.Ws.1 and 2 also examined. At this stage, instant Criminal Original Petition has been filed to quash C.C.No.70 of 2012.

4. Defacto complainant has filed a private complaint mainly on the ground that the accused had abused and also threatened the witnesses when he asked for the amount which have been agreed to be returned. As the accused dodging the payment, when the complainant requested for the same, accused made a threat and abused him.

5. The learned Magistrate has examined the defacto complainant on oath and took a sworn statement. The statement of the defacto complainant before the learned Magistrate would indicate that in money transaction general allegation is that the accused has abused him and no specific overt act has been made. However, the above two general allegations made the learned Magistrate to took cognisance of the offence mechanically and issued the summons. On a perusal of the entire complaint, this Court is of the view that allegations are general in nature and vague. No specific allegation has been attributed against any of the accused. Accused are facing the trial from the year 2014. P.Ws.1 and 2 were already examined by the trial Court. In one voice, they have stated that they did not know anything about the occurrence stated to have been taken place, as alleged by the defacto complainant. Now, the defacto complainant is also no more. His son has filed an application to implead himself in the place of his father, which is also pending before the learned Magistrate Court. When the very occurrence itself is not specific, and there is no overt act what so ever spoken by the witnesses P.Ws.1 and 2. Therefore, for making all the accused to appear before the trial Court where no evidence is available against them would serve no purpose.



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6. In the result, this Criminal Original Petition is allowed. C.C.No.70 of 2012, pending on the file of the District Munsif-cum-Judicial Magistrate, Pochampalli is quashed. Consequently connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mvs.
To

1.The District Munsif-Cum-Judicial Magistrate,
Pochampalli.

+1cc to Mr.M.P.Saravanan, Advocate, S.R.No.57325

Cr1. O.P. No. 12662 of 2017
and
Cr1.M.P.Nos.14398, 14399 and 8267 of 2017

GPC(CO)
CT 07/12/2021